

will then be forwarded to the Assistant Secretary for Public and Indian Housing (or designee) for final determination of compliance with the asset management requirements of subpart H of this part.

(3) Upon completion of the independent assessment, the assessor shall conduct an exit conference with the PHA. In response to the exit conference, the PHA may submit a management response and other pertinent information (including, but not limited to, an additional assessment procured at the PHAs' own expense) within ten working days of the exit conference to be included in the report submitted to HUD.

(4) In the event that HUD is unable to produce a list of independent assessors on a timely basis, the PHA may submit its own demonstration of a successful conversion to asset management directly to HUD for determination of compliance.

(5) The Assistant Secretary for Public and Indian Housing (or designee) shall consider all information submitted and respond with a final determination of compliance within 60 days of the independent assessor's report being submitted to HUD.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005, as amended at 72 FR 45874, Aug. 15, 2007]

#### § 990.235 PHAs that will experience a subsidy increase.

(a) For PHAs that will experience a gain in their operating subsidy, as determined in § 990.225, such increases will have a limit of 50 percent of the difference between the two funding levels in the first year following implementation of the formula contained in this part.

(b) The full amount of the increase in the operating subsidy level shall be realized in the second year following implementation of the formula contained in this part.

(c) For example, a PHA's subsidy increased from \$900,000 under the formula in effect prior to implementation of the formula contained in this part to \$1 million under the formula contained in this part using FY 2004 data. The difference would be calculated at \$100,000 (\$1 million - \$900,000 = \$100,000). In the

first year, the subsidy increase would be limited to \$50,000 (50 percent of the difference). Thus, in this example the PHA will receive the operating subsidy amount of this rule minus a transition-funding amount of \$50,000 (the \$100,000 difference between the two subsidy amounts minus the \$50,000 transition amount).

(d) The schedule for a PHA whose subsidy would be increased is reflected in the table below.

Funding period	Increase limited to
Year 1 .....	50 percent of the difference.
Year 2 .....	Full increase reached.

[70 FR 54997, Sept. 19, 2005; 70 FR 61367, Oct. 24, 2005]

### Subpart G—Appeals

#### § 990.240 General.

(a) PHAs will be provided opportunities for appeals. HUD will provide up to a two percent hold-back of the Operating Fund appropriation for FY 2006 and FY 2007. HUD will use the hold-back amount to fund appeals that are filed during each of these fiscal years. Hold-back funds not utilized will be added back to the formula within each of the affected fiscal years.

(b) Appeals are voluntary and must cover an entire portfolio, not single projects. However, the Assistant Secretary for Public and Indian Housing (or designee) has the discretion to accept appeals of less than an entire portfolio for PHAs with greater than 5,000 public housing units.

#### § 990.245 Types of appeals.

(a) *Streamlined appeal.* This appeal would demonstrate that the application of a specific Operating Fund formula component has a blatant and objective flaw.

(b) *Appeal of formula income for economic hardship.* After a PHA's formula income has been frozen, the PHA can appeal to have its formula income adjusted to reflect a severe local economic hardship that is impacting the PHA's ability to maintain rental and other revenue.